

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

TIMOTHY M. NASH,)	CASE NO. 1:11 CV 329
)	
Plaintiff,)	JUDGE JAMES S. GWIN
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
KENNETH KOCHAVAR)	<u>AND ORDER</u>
)	
Defendant.)	

Plaintiff Timothy Nash filed this action under 42 U.S.C. § 1983 against Cuyahoga County Jail Warden Kenneth Kochavar. In the Complaint, he alleges the Jail does not have a full time Islamic religious leader on staff while a Christian Chaplain is employed. He claims this is a denial of equal protection, and offers to perform the duties of Islamic religious leader for the jail. He seeks lost wages, an order for religious materials and office equipment, a permanent place for Islamic worship in the jail, and monetary damages for emotional distress.

Plaintiff also filed an Application to Proceed *In Forma Pauperis*. Pursuant to 28 U.S.C. § 1915(a), a court may authorize the commencement of an action without prepayment of fees if an applicant has shown by affidavit that he satisfies the criterion of poverty. Prisoners, however, become responsible for paying their filing fees and costs from the moment the Complaint is filed. 28 U.S.C. § 1915(b); *McGore v. Wigglesworth*, 114 F.3d 601, 604 (1997). When an inmate seeks

pauper status, the only issue for the Court to determine is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan. *Id.* Moreover, absent imminent danger, the benefit of the installment plan is denied to prisoners who have on three or more prior occasions, while incarcerated, brought an action that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief could be granted. 28 U.S.C. § 1915(g).

Plaintiff is incarcerated in the Cuyahoga County Jail and, while incarcerated, filed more than three previous actions which were dismissed as frivolous.¹ Accordingly, Plaintiff's Application to Proceed *In Forma Pauperis* is denied, and this action is dismissed without prejudice pursuant to 28 U.S.C. §1915(g). Plaintiff is cautioned that if he files a new case in this Court, it must be accompanied by the full filing fee of \$350.00.

IT IS SO ORDERED.

Dated: July 15, 2011

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

¹ See *Nash v. McFaul*, No. 1:11 CV 330 (N.D. Ohio April 1, 2011)(Polster, J.); *Nash v. Reid*, No. 1:11 CV 70 (N.D. Ohio Mar. 14, 2011)(Polster, J.); *Nash v. Reid*, No. 1:10 CV 2926, (N.D. Ohio Feb 1, 2011)(Boyko, J.); *Nash v. Cuyahoga County*, No. 1:10 CV 2386 (N.D. Ohio Dec. 20, 2010)(Oliver, J.); *Nash v. City of Cleveland*, No. 1:05 CV 1578 (Aug. 4, 2005)(Manos, J.); *Nash v. Cuyahoga County Metropolitan Housing Authority*, No. 1:98 CV 2145 (Nov. 2, 1998)(Nugent, J.)